

**June 25, 2009 Minutes of
Bigfork Land Use Advisory Committee
Bethany Lutheran Church**

Committee members present: John Bourquin, Shelley Gonzales, Gary Ridderhoff, Al Johnson, Darrel Coverdell, Chuck Gough, Sue Hanson and 11 members of the public.

Chairman Gonzales called the meeting to order at 4: 05 pm.

The Agenda was adopted as presented (m/sc Johnson/Gough) – unanimous.

Minutes of the May 28, 2009 meeting were approved as mailed - unanimous. (m/sc Bourquin/Gonzales)- unanimous. Minutes of the BLUAC/BSC June 11, 2009 meeting were approved as mailed – unanimous. (m/sc Gough/Ridderhoff)

ADMINISTRATOR’S REPORT:

A. Sign-in Sheet: Reminder to the public of the availability of BLUAC minutes through email and BSC website bigforksteering.org/.

B. Application status: County status on previous pending applications: Brach Thomson and the Bigfork Playhouse Children’s Theater, for a Conditional Use Permit - approved; Amendment to the original Mill Creek Estates Planned Unit Development – approved by Planning Board, Commissioner 30-day public comment began June 23, 2009.

ELECTION OF OFFICERS:

Gough nominated Shelley Gonzales as Chairman. Coverdell seconded the motion. Motion carried unanimously.

Bourquin nominated Paul Guerrant as Vice-Chairman. Ridderhoff seconded the motion. Motion carried unanimously.

Gough nominated Sue Hanson as Secretary. Ridderhoff seconded the motion. Motion carried unanimously.

APPOINTMENT MEMBER AT LARGE:

Committee reviewed one letter of application from Al Johnson. Bourquin moved Al Johnson be appointed. Gough seconded the motion. Motion carried unanimously.

APPLICATIONS:

A. A request by Edward Grzesik for a Conditional Use Permit to operate a wine bar, alcoholic beverage catering service catering service for group events and an all beverage retail bar in the future, within the Bigfork, B-2 (General Business) Zoning District. The property is located at 7935 Highway 35, units 104 and 105, and can legally be described as Branding Iron Station Condo Unit 105 in Section 25, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

Staff: Andrew Hagemeyer presented the application by Hugh Yates, operator of the business. Grzesik is the owner of the property. The applicant has applied for a full liquor license. The process requires the business to be compliant with zoning regulations. In order to be compliant, the applicant would need a Conditional Use Permit for operation of a tavern. Hagemeyer addressed sufficiency of parking. The complex (Branding Iron Station) currently has 48 parking spaces between the lower and upper parking

area. It was determined the parking is sufficient and may increase traffic during peak hours but did not determine that as an issue. Since the application overlapped the approval of the Bigfork Neighborhood Plan Update, both plans were reviewed for compliance with the BNP. It was determined to meet BNP guidelines. Planning Staff recommends approval subject to the 4 conditions included in the Staff Report.

Applicant: Hugh Yates stated the business currently has an off-premise beer and wine license. They would like to offer wine tasting events and expand the business to do catering off premise.

Public Agencies: Julie Spencer, Bigfork Water and Sewer Dept., noted that since the Branding Iron Station did not go through County review or MDEQ review and was concerned about increased usage for a bar use. There is only a ¾" line and currently serves 14 bathrooms in the complex. She requested the business install a grease trap.

Yates: We have been approved by the County Health Department.

Public Comment:

Marilyn Murer stated she owned the property west of the complex and was concerned about adding another bar in an area where 4 already exist. She noted traffic was already an issue in this confined area and through Icebox Canyon.

Staff: As to the service lines, the applicant was not responsible for servicing the whole building. He could think of no condition that would require that of the applicant. As to an additional tavern designation, the committee could recommend a condition on hours of operation to mitigate impacts to the neighborhood.

Yates: We have three children and are more interested in the art side of wine and food. The hours are now 7a.m. to 7.p.m. At this time, we are not planning to expand our hours with the possible exception of after-hours for the Summer Playhouse.

BLUAC:

Ridderhoff 1) Will you serve food? A. Yes, considering serving cheese platters. We have no kitchen facilities and currently purchase pastries from a Kalispell business. 2) What happens when you no longer own or leave the business? A. The Conditional Permit stays with the property. 3) Why not just apply for a wine/beer license? A. A full serve license is \$400; the beer/wine license is \$2,200.

Bourquin 1) As to water use, the usage would be mostly in the evening hours when the other retail businesses are closed. Under those conditions would it be adequate? A. Spencer- the service inside the building is 1 ¾". It might be adequate, but if not the owner bears the responsibility. 2) As to hours of operation, in your letter with the application, dated April 28, 2009, you state your hours of operation would be from 7 a.m. to 2 a.m. at the latest. A. We were told to put the longest duration of operating hours possible. 3) What hours would work out for you? A. 10:00 p.m. during the week, 11:00 p.m. on weekends.

Johnson 1)(to Murer) do reduced hours make you more comfortable? A. Not necessarily. Traffic is still a problem in that area. 2) Would you set up tables outside? A. Four maybe. That's about the limit the area would permit. 3) Would you have music? A. Perhaps for smaller events but not late at night. 4) Would you limit outside music to 9:00 p.m.? A. Sure. 5) Can residential apartments be built there in the other condo units? A. Accessory apartments are permitted. 6) Where in the zoning regulations

are “taverns” defined? A. The Montana Code defines taverns and sets hours of operations and regulations.

Coverdell: Municipalities have a limit on the number of taverns allowed. In unincorporated areas, there is not limit. There are a number of taverns along this stretch (Tall Pine, Sunshine Pizza, Jackpot Casino, El Topo, VFW). I’m concerned this could become a full-blown bar/casino.

Gonzales: I’m uncomfortable with the open-ended application. It would seem conditions on operation are in order. Then if it changes, you would have to come back for an amendment.

Staff: The Findings of Fact are an avenue to establish conditions.

Ridderhoff: I’m concerned about setting precedent. There is another property next door still to be developed.

Johnson moved the following addition to finding of fact #4: “The proposed use meets the criteria established in Section 2.06 of the Flathead County Zoning Regulations for immediate neighborhood impact because *the uses contemplated by the applicant comments do not include the operation of an onsite full-beverage bar*, there will be no significant increase in traffic generation, impacts from noise, dust, glare, heat, smoke, fumes, gas and odors will not be significant, and the hours of operation are appropriate for the character of the area.” **Gough** seconded the motion. Under discussion, Bourquin asked the applicant if they were comfortable with a no full-use bar. Applicant affirmed he is comfortable with that. Motion passed unanimously.

Johnson moved for recommendation of an additional condition #5. “Hours of operation will be limited to summer hours from June 15 to September 15 from 7 a.m. to 11 p.m. Winter hours from September 16 to June 14 from 7 a.m. to 9 p.m. Sunday through Thursday, and 7 a.m. to 11 p.m. Friday and Saturday.”

Gough seconded the motion. Motion passed unanimously.

Bourquin moved for recommendation of an additional condition. Gonzales seconded the motion. Motion passed unanimously.

Gough moved for recommendation of approval of the application subject to the additions to Finding #4 and conditions # 5 & 6. Johnson seconded the motion. Motion passed 5-1 (Coverdell dissenting).

The application will be heard by the Flathead County Board of Adjustment, Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, on July 7, 2009, at 6:00 p.m.

B. Agency exemption to local zoning; Bigfork Fire District (FPAE 09-01): A request by Bigfork Fire District to construct a fire training facility on property owned by the district, located at 735 Echo Lake Road. The Board of Trustees of the Bigfork Fire District gave notice to the Board of Adjustment of Flathead County that it intends to construct a training facility that may be contrary to zoning regulations adopted by Flathead County as the property is zoned SAG-5, (Suburban Agricultural). Pursuant to 76-2-402, MCA the board shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use.

Staff: **Alex Hogle** stated even though Pursuant to 76-2-402, MCA the District is exempt from compliance with local zoning regulations, this meeting and the meeting at the Flathead County Board of Adjustment shall act only to allow a public forum for comment on the proposed use. The Fire District

intends to construct a three-story building for training. Smoke will be present during training. Comment from the public will have a bearing on how the District develops the property.

Ridderhoff: Any comments from neighbors? A. None

Gough: I think this will be a great facility. I am one of the founding members of Friends of Bigfork Fire Department. The building would be re-ignitable and the Department will be able to practice with the ladder truck. There will be stairs outside for training, as well. The District intends to make the facility available to other fire departments but would not charge for its use. Usually, there is reciprocation between departments to trade equipment, etc.

Gough moved to express support of the facility and to acknowledge and thank the Bigfork Fire Department for their service to our community. **Johnson** seconded the motion. Motion passed unanimously.

The application will be heard by the Flathead County Board of Adjustment, Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, on July 7, 2009, at 6:00 p.m.

There was a 5-minute break.

OLD BUSINESS:

A. Commissioner's decision re: BNP Future Land Use Map:

Gonzales stated that everyone was well aware of what happened during the approval of the BNP by the Commissioners. She and Paul Guerrant met with attorney Roger M. Sullivan, a land use trial attorney, because BLUAC owed the community an explanation of the actions and options. Sullivan stated that while the last minute change to the Future Land Use Map was disappointing, and certainly bad public policy, the MCA on land use has language that is broad and the action was not illegal. The Flathead County Growth Policy also has broad language and the action was not prohibited. Sullivan did say the community could pursue to block or overturn the Commissioner's action. In order to do so:

50% of the landholders in the agricultural designated area (approximately 27,000 acres) would have to object or 50% of the total acreage (approx. 13,500 acres) owned by large landholders objected.

Gonzales stated that both she and Guerrant felt it would be counterproductive to the community for BLUAC pursue. Gonzales produced a letter, for the record, from Roger Sullivan, which stated his position and expressed that he was impressed and inspired by the amount of work that the community invested in the development of the plan. He did not charge a fee for the consultation as a token of his appreciation for the work on the BNP in an effort to preserve the quality of life for all of us.

Gough: Is there a way we can re-do the Future Land Use Map, through the regular review process and perhaps change this designation to Commercial? The Commissioners seemed to use the word commercial and industrial interchangeably.

Leslie Budewitz: Expressed her respect for Roger Sullivan did not think there was any percentage in an appeal to the Commissioner's decision. She suggested two alternative actions; 1) Revising the Future Land Use Map through the regular public process or 2) A letter to the Commissioners to express the disappointment of the community.

BLUAC members generally agreed it was not BLUAC's responsibility to respond on behalf of the community. The appropriate group would be the BSC.

B. By-laws & Policies & Procedures:

After review, there were no changes to the Policies and Procedures.

NEW BUSINESS:

None

PUBLIC COMMENT:

Leslie Budewitz: She pointed out that a note passed to a member of BLUAC, without disclosing the contents publicly, was not appropriate. The note passed from Craig Wagner to Al Johnson disclosed Wagner's thoughts on the wording of conditions recommended. Note is included in Secretary's minute book for public view.

Meeting was adjourned at 6:05 p.m.

Sue Hanson
BLUAC Secretary